

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

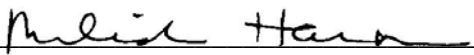
UNITED STATES OF AMERICA,	§	
Plaintiff-Respondent,	§	
	§	
V.	§	CRIMINAL ACTION NO. H-03-45
	§	CIVIL ACTION NO. H-05-2841
NICOLAS PENA-REYES,	§	
Defendant-Movant	§	

MEMORANDUM AND ORDER

Before the Court is Movant Nicolas Pena-Reyes's ("Pena-Reyes") § 2255 Motion to Vacate, Set Aside or Correct Sentence (Doc. 31);¹ his Memorandum in Support of his § 2255 Motion to Vacate, Set Aside or Correct Sentence (Doc. 32), the Government's Answer (Doc. 34) and Motion to Dismiss (Doc. 35), and the Magistrate Judge's Memorandum and Recommendation (Doc. 36). Pena-Reyes has not objected to the Magistrate Judge's Memorandum and Recommendation.

After carefully considering the record and the applicable law, the Court concludes that Petitioner's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 should be **DENIED** and the Government's motion to dismiss should be **GRANTED**. The Court adopts the Magistrate Judge's Memorandum and Recommendation in full.

SIGNED at Houston, Texas this 9th day of February, 2007.


MELINDA HARMON
UNITED STATES DISTRICT JUDGE

¹ Nicolas Pena-Reyes' Motion to Vacate, Set Aside or Correct Sentence can be found at Document No. 1 in Civil Action H-05-2841 and at Document No. 31 in Criminal Action No. H-03-45. References hereafter will be to the Criminal Document numbers unless otherwise indicated.